

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Nov 23, 2020**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

GILBERTO GOMEZ GARCIA, as an  
individual and on behalf of all other  
similarly situated persons,  
JONATHAN GOMEZ RIVERA, as an  
individual and on behalf of all other  
similarly situated persons,

Plaintiffs,

v.

STEMILT AG SERVICES LLC,

Defendant.

No. 2:20-cv-00254-SMJ

**ORDER ADOPTING PROPOSED  
PROTECTIVE ORDER**

Before the Court, without oral argument, are Plaintiffs' Motion for Order Finding Discovery of ESD Documents Appropriate, ECF No. 20, and Defendants' Motion for Protective Order, ECF No. 29. Plaintiffs seek an order finding that discovery of Washington State Employment Security Division (ESD) records is appropriate in this case. ECF No. 20 at 3. At the telephonic status conference, the Court ordered the parties to confer and provide the Court with an agreed proposed protective order. *See* ECF No. 23 at 2.

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1 The parties conferred but could not agree on the terms of a proposed  
2 protective order. *See* ECF Nos. 28-2, 29. Accordingly, each party filed a proposed  
3 protective order. ECF Nos. 28, 30-2. Defendant also attached to its motion ESD's  
4 proposed protective order. ECF No. 30-1. Plaintiffs seek a narrow protective order  
5 which would only cover ESD documents and would allow them to retain the  
6 produced records after the close of litigation. ECF Nos. 28, 28-1. Defendant seeks  
7 a more expansive protective order, which would cover ESD documents as well as  
8 other documents produced by the parties. ECF Nos. 29, 30-2. The protective order  
9 proposed by ESD is similar in most respects to Plaintiffs' proposed order, the most  
10 notable difference being that ESD's proposed order includes provisions for the  
11 destruction of covered materials after litigation concludes. ECF No. 30-1.

12 "Generally, the public can gain access to litigation documents and  
13 information produced during discovery unless the party opposing disclosure shows  
14 'good cause' why a protective order is necessary." *Phillips v. GMC*, 307 F.3d 1206,  
15 1210 (9th Cir. 2002). While the Court agrees with the necessity of a protective  
16 order, the Court finds that both Defendant's and ESD's proposed orders overly  
17 restrict the use of the discovery without a showing of good cause. The Court finds  
18 Plaintiffs' proposed protective order reaches a middle ground that addresses the  
19 interests of all parties, striking the appropriate balance between Plaintiffs' interest  
20 in advocating for farm workers and the privacy interests of the parties and the

1 subjects of the records. Because the protective order continues after the conclusion  
2 of this lawsuit, it provides adequate protections against broad disclosures without  
3 the need to require the destruction of records as proposed by ESD and Defendant.  
4 *See* ECF No. 28 at 5. The Court therefore adopts Plaintiffs’ protective order, subject  
5 to the additional provisions described below.

6       The Court finds that, given the adoption of the proposed protective order, the  
7 need for the information and records in the current proceedings outweighs any  
8 further privacy and confidentiality concerns. *See* Wash. Rev. Code § 50.13.015 *et*  
9 *seq.*; 20 C.F.R. § 603.1 *et seq.* Although Washington Revised Code Section  
10 50.13.015(4) states that “[p]ersons requesting disclosure of information held by  
11 [ESD] . . . shall request such disclosure from the agency providing the information  
12 to [ESD] rather than from [ESD],” Section 50.13.070 allows ESD to disclose such  
13 information upon an order from a Court. This creates an efficient result and is  
14 consistent with what courts have ordered in similar cases. *See, e.g., Rosas v.*  
15 *Sarbanand Farms, LLC*, No. 18-0112-JCC, 2019 U.S. Dist LEXIS 131735, at \*3–  
16 \*4 (W.D. Wash. August 6, 2018). Plaintiffs therefore need not seek the records from  
17 other agencies before requesting them from ESD.

18       If any party believes additional protections are needed for *specific* ESD  
19 documents or other discovery not covered by the protective order, that party shall  
20 confer with opposing counsel to try to agree on a stipulated protective order for the

1 specific discovery at issue. If the parties cannot agree on a stipulated protective  
2 order after meeting and conferring in good faith, the party seeking the protections  
3 may file a motion with the Court.

4 Accordingly, **IT IS HEREBY ORDERED:**

5 **1.** Plaintiffs' Motion for Order Finding Discovery of ESD Documents  
6 Appropriate, **ECF No. 20**, is **GRANTED IN PART**.

7 **2.** The Court finds that, given the adoption of the proposed protective  
8 order, the need for the information and records in the current  
9 proceedings outweighs any further privacy and confidentiality  
10 concerns. *See* Wash. Rev. Code § 50.13.070. ESD shall produce:

11 **A.** Documentation regarding all recruitment efforts in connection  
12 with Stemilt's 2017 H-2A clearance orders; and

13 **B.** All complaints, documentation, and investigation results related  
14 to Stemilt from 2015 to 2017 in connection with Stemilt's H-2A  
15 clearance orders.

16 **3.** Defendant's Motion for a Protective Order, **ECF No. 29**, is **DENIED**.


17 **4.** Plaintiffs' proposed protective order, **ECF No. 28**, is **APPROVED**,  
18 **ADOPTED**, and **INCORPORATED** in this Order by reference.

19 **5.** This order has no effect on the parties right or obligation to file private  
20 or confidential materials under seal.

1           6.     If a party believes that an additional protective order is needed, they  
2                 may file a motion with the Court after attempting to resolve the issue  
3                 with the opposing party as described above.

4           **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and  
5 provide copies to all counsel.

6           **DATED** this 23<sup>rd</sup> day of November 2020.

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                                  SALVADOR MENDOZA, JR.  
                                  United States District Judge  
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